

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 29 MAR 2006

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Applicant's or agent's file reference FP04-0417-00	<b>FOR FURTHER ACTION</b>		See Form PCT/IPEA/416
International application No. PCT/JP2005/003093	International filing date (day/month/year) 18.02.2005	Priority date (day/month/year) 11.03.2004	
International Patent Classification (IPC) or national classification and IPC INV. B60R21/01			
Applicant TOYOTA JIDOSHA KABUSHIKI KAISHA ET AL			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
  - a. ☐ sent to the applicant and to the International Bureau) a total of sheets, as follows:
    - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
    - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
  - b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

- ☒ Box No. I Basis of the report
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

Date of submission of the demand  16.08.2005	Date of completion of this report  29.03.2006
Name and mailing address of the international preliminary examining authority:   European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized officer  Daehnhardt, A Telephone No. +31 70 340- 4268



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International application No.  
PCT/JP2005/003093

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**Box No. I Basis of the report**

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1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

**Description, Pages**

1-28 as originally filed

**Claims, Numbers**

1-11 as originally filed

**Drawings, Sheets**

1/9-9/9 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	2-11
	No: Claims	1
Inventive step (IS)	Yes: Claims	
	No: Claims	1-11
Industrial applicability (IA)	Yes: Claims	1-11
	No: Claims	

2. Citations and explanations (Rule 70.7):

**see separate sheet**

**Re Item V**

**Reasoned statement with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement**

**1 State of the art**

Reference is made to the following documents:

- D1: EP-A-1 338 731 (AISIN SEIKI KABUSHIKI KAISHA) 27 August 2003 (2003-08-27)
- D2: US 2002/177931 A1 (IWASAKI TATSUYA ET AL) 28 November 2002 (2002-11-28)
- D3: JP 05 078619 U (NILES PARTS CO., LTD.) 26 October 1993 (1993-10-26)

**2 Claims 1 to 11**

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

The document D1 discloses (the references in parentheses applying to this document, see paragraphs [0017] - [0021], figure 3) an opening/closing controlling apparatus (10) for performing an automatic opening/closing control of an opening/closing object mounted on a vehicle, comprising automatic opening/closing means for automatically opening/closing the opening/closing object (4); collision detecting means (17) for detecting a collision of the vehicle; time measuring means for measuring a time from a time when the collision detecting means detects the collision of the vehicle; and opening/closing controlling means for prohibiting automatic opening/closing of the opening/closing object (4) from the time of the collision of the vehicle and for permitting the automatic opening/closing by the automatic opening/closing means after passage of a predetermined time since the collision (paragraph [0021]).

The features of claim 1 are thus disclosed in document D1.

- 2.2 Dependent claims 2 to 11 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step (Article 33(2) PCT), the reasons being as follows:

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In claims 2 to 11 a slight change in the apparatus of claim 1 is defined which comes within the scope of the customary practice followed by persons skilled in the art, especially as the advantages thus achieved can readily be foreseen, the reliable control after a detected collision.

Consequently, the subject-matter of claims 2 to 11 lacks an inventive step.

**3 Industrial applicability**

The subject-matter of claims 1 to 11 seems to fulfil the provisions of Art. 33 (4) PCT, since it can be produced and used at least in the automotive industry.